

32692
Customer Number

Patent
Case No.: 64349US010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: LUDWIG, PETER

Application No.: 10/587967

Confirmation No.: 6670

Filed: 01-FEB-2005

Group Art Unit

Title: SEPARATING LAYER CARRIER

BRIEF ON APPEAL

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ transmitted to United States Patent and Trademark Office on the date shown below via the Office electronic filing system.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-8300.
- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

March 29, 2011

/Kim Elfstrom/

Date

Signed by: Kim Elfstrom

Dear Sir:

This is an appeal from the Office Action mailed on July 29, 2010, finally rejecting claims 1-14.

Fees

- ☒ Any required fee under 37 CFR § 41.20(b)(2) will be made at the time of submission via EFS-Web. In the event fees are not or cannot be paid at the time of EFS-Web submission, please charge any fees under 37 CFR § 1.17 which may be required to Deposit Account No. 13-3723.
- ☐ Please charge any fees under 37 CFR §§ 37 CFR § 41.20(b)(2) and 1.17 which may be required to Deposit Account No. 13-3723.
- ☒ Please charge any additional fees associated with the prosecution of this application to Deposit Account No. 13-3723. This authorization includes the fee for any necessary extension of time under 37 CFR § 1.136(a). To the extent any such extension should become necessary, it is hereby requested.
- ☒ Please credit any overpayment to the same deposit account.

A Notice of Appeal in this application was filed on October 29, 2010 and was received in the USPTO on October 29, 2010.

REAL PARTY IN INTEREST

The real party in interest is 3M Company (formerly known as Minnesota Mining and Manufacturing Company) of St. Paul, Minnesota and its affiliate 3M Innovative Properties Company of St. Paul, Minnesota.

RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals or interferences.

STATUS OF CLAIMS

Claims 1-14 are pending. Claims 1-14 stand rejected and are appealed herein. The claims are subject to a rejection for double patenting. Such a rejection will be dealt with upon the finding of allowable subject matter in the present case, and is not appealed at this time.

STATUS OF AMENDMENTS

No amendments have been filed after the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The claims at issue concern a separating layer carrier comprising a laminar substrate and a separating layer applied thereon. See, e.g., paragraph 0001 of the application as published. The carrier comprises a relief structure with raised sections forming substantially complementary channels in a layer of adhesive, through which air trapped during adhesion can escape. See, e.g., paragraph 0001 of the application as published. The relief structure is provided, at least in part, by an imprint of a printing material in a pattern on the substrate and the raised sections of the relief structure comprise the printing material. See, e.g., paragraph 0007, and Figures 1-4 of the application as published.

In some embodiments, the substrate comprises paper. See, e.g., paragraph 0008 of the application as published.

In some embodiments, the substrate comprises coated paper. See, e.g., paragraph 0008 of the application as published.

In some embodiments, the substrate comprises paper coated with plastic. See, e.g., paragraph 0010 of the application as published.

In some embodiments, the substrate comprises plastic film. See, e.g., paragraph 0010 of the application as published.

In some embodiments, the substrate comprises plastic film coated with plastic. See, e.g., paragraph 0010 of the application as published.

In some embodiments, the separating layer is imprinted on the substrate with the relief structure covering the entire surface. See, e.g., paragraph 0011 of the application as published.

In some embodiments, the relief structure is a regular polygonal structure comprising polygons having between four and eight corners. See, e.g., paragraph 0014 of the application as published.

In some embodiments, the relief structure is an irregular polygonal structure comprising stochastically shaped and distributed corner-joined polygons having between four and seven corners. See, e.g., paragraph 0015 of the application as published.

In some embodiments, the relief structure comprises sections having a width of from 50 μm to 200 μm and a height of from 5 μm to 40 μm . See, e.g., paragraph 0013 of the application as published.

In some embodiments, each polygon covers an area of from 0.5 mm^2 to 3 mm^2 . See, e.g., paragraph 0016 of the application as published.

In some embodiments, a self-adhesive material is added to the carrier. See, e.g., paragraph 0002 and Figures 1-3 of the application as published.

In some embodiments, the relief structure is a rhombus or regular hexagon. See, e.g., paragraph 0014 of the application as published.

In some embodiments, the printing material comprises printing inks modified with silicone. See, e.g., paragraph 0009 of the application as published.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

First Ground of Rejection

Claims 1-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent 6,197,397 to Sher et al. ("Sher").

Second Ground of Rejection

Claims 1-10 and 12-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Application 2001/0031352 (“Hannington”).

Third Ground of Rejection

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Sher.

Fourth Ground of Rejection

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Hannington. As stated above, Hannington fails to teach each and every element of Claim 1.

Fifth Ground of Rejection

Claims 1-13 are rejected under 35 USC § 103(a) as being unpatentable over Sher in view of U.S. Patent Application 2003/0211295 to Scarborough et al. (“Scarborough”).

Sixth Ground of Rejection

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Sher in view of Scarbrought and further in view of U.S. Patent 6,254,583 to O’Donnell et al. (“O’Donnell”).

Seventh Ground of Rejection

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Hannington in view of U.S. Patent 6,350,339 to Sessions (“Sessions”).

ARGUMENT**First Ground of Rejection**

Claims 1-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent 6,197,397 to Sher et al. (“Sher”). The Examiner takes the position that the silicone release coating of Sher is an imprint of a printing material. The silicone release coating disclosed in Sher is

merely a continuous coating over the entire liner in Sher. See Col. 9, lines 20-24. This coating is not the primary provider of the relief pattern. While Sher does have a relief pattern on the liner, it is embossed into the liner and is not separately provided by the printing material. The printing material, as argued by the Examiner, is merely a coating over an existing relief structure. The silicone release coating is not printed in a pattern in Sher.

Sher fails to teach or disclose the printing material in a pattern. Claims 2-13 depend, directly or indirectly, from Claim 1 and therefore are patentable for the reasons previously discussed. The rejection of claims 1-13 under 35 USC § 102(b) as being anticipated by Sher has been overcome and should be withdrawn.

Second Ground of Rejection

Claims 1-10 and 12-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Application 2001/0031352 (“Hannington”). The Examiner states that Hannington teaches a relief structure at Fig. 4, #43 and paragraph 0050. However, element #43 is a non-adhesive portion printed directly onto an adhesive surface. In some embodiments, it is then embedded in the adhesive. The release liner (carrier) is then laminated directly to the printed adhesive. Hannington never teaches or suggests a separating layer carrier comprising a laminar substrate and a separating layer applied thereon, wherein the carrier comprises a relief structure with raised sections forming substantially complementary channels in a layer of adhesive. Therefore, Claim 1 is not anticipated by Hannington. Claims 2-10 and 12-13 depend, directly or indirectly, from Claim 1 and therefore are patentable for the reasons previously discussed.

The rejection of claims 1-10 and 12-13 under 35 USC § 102(b) as being anticipated by Hannington has been overcome and should be withdrawn.

Third Ground of Rejection

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Sher. As stated above, Sher fails to teach each and every element of Claim 1. Claim 9 depends directly from Claim 1, and is therefore patentable for the reasons discussed above.

Fourth Ground of Rejection

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Hannington. As stated above, Hannington fails to teach each and every element of Claim 1. Claim 9 depends directly from Claim 1, and is therefore patentable for the reasons discussed above.

Fifth Ground of Rejection

Claims 1-13 are rejected under 35 USC § 103(a) as being unpatentable over Sher in view of U.S. Patent Application 2003/0211295 to Scarborough et al. (“Scarborough”). The Examiner states that one would replace the embossing feature in Sher for the printing feature of Scarborough to save the cost associated with embossing. However, one would also be placing a layer of adhesive over the printed article in order to form substantially complementary channels in the adhesive. Nothing in Scarborough would suggest that the printed material would be effective to form these channels in an adhesive coated over the top. Additionally, the adhesive channels must be open after removal of the release liner so the air trapped during adhesion can escape. One would not reasonably expect that the printed material would remain on the carrier, thereby allowing the air channels that were created to remain open. Therefore, one of skill in the art would not make the modification suggested by the Examiner, and the rejection of claims 1-13 under 35 USC § 103(a) as being unpatentable over Sher in view of Scarborough has been overcome and should be withdrawn.

Sixth Ground of Rejection

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Sher, or Sher in view of Scarborough and further in view of U.S. Patent 6,254,583 to O’Donnell et al. (“O’Donnell”). As stated above, Claim 1 is patentable over Sher in view of Scarborough. Claim 14 depends directly from Claim 1, and is therefore patentable for the reasons discussed above. The addition of O’Donnell fails to correct the defects in Sher and Scarborough.

Seventh Ground of Rejection

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Hannington in view of U.S. Patent 6,350,339 to Sessions (“Sessions”). Claim 14 depends directly from Claim

1, and is therefore patentable for the reasons discussed above. As stated above, Hannington fails to teach each and every element of Claim 1. Sessions fails to correct the defects in Hannington.

CONCLUSION

For the foregoing reasons, appellants respectfully submit that the Examiner has erred in rejecting this application. Please reverse the Examiner on all counts.

Respectfully submitted,

March 29, 2011

Date

By: /Colene H. Blank/

Colene H. Blank, Reg. No.: 41,056

Telephone No.: 651-737-2356

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833

CLAIMS APPENDIX

1. (Previously Presented) A separating layer carrier comprising a laminar substrate and a separating layer applied thereon, wherein the carrier comprises a relief structure with raised sections forming substantially complementary channels in a layer of adhesive, through which air trapped during adhesion can escape, characterized in that the relief structure is provided, at least in part, by an imprint of a printing material in a pattern on the substrate and the raised sections of the relief structure comprise the printing material.
2. (Original) The separating layer carrier according to claim 1, wherein the substrate (10) comprises paper.
3. (Original) The separating layer carrier according to claim 2, wherein the substrate comprises coated paper.
4. (Original) The separating layer carrier according to claim 2, wherein the substrate comprises paper coated with plastic.
5. (Original) The separating layer carrier according to claim 1, wherein the substrate comprises plastic film.
6. (Original) The separating layer carrier according to claim 5, wherein the substrate comprises plastic film coated with plastic.
7. (Original) The separating layer carrier according to claim 1 wherein the separating layer is imprinted on the substrate with the relief structure covering the entire surface.
8. (Previously Presented) The separating layer carrier according to claim 1 wherein the relief structure is a regular polygonal structure comprising polygons having between four and eight corners.

9. (Original) The separating layer carrier according to claim 1 wherein the relief structure is an irregular polygonal structure comprising stochastically shaped and distributed corner-joined polygons having between four and seven corners.

10. (Original) The separating layer carrier according to claim 1 wherein the relief structure comprises sections having a width of from 50 μm to 200 μm and a height of from 5 μm to 40 μm .

11. (Previously Presented) The separating layer carrier according to claim 8 wherein each polygon covers an area of from 0.5 mm^2 to 3 mm^2 .

12. (Original) A self-adhesive material comprising a separating layer carrier according to claim 1.

13. (Previously Presented) The separating layer carrier according to claim 8 wherein the relief structure is a rhombus or regular hexagon.

14. (Previously Presented) The separating layer of claim 1 wherein the printing material comprises printing inks modified with silicone.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.